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ABSTRACT

Literature concerning teachers' right to strike was reviewed. Three major themes were addressed: (1) the present state of arguments against teacher strikes; (2) their refutation by various individuals within the profession; and (3) arguments that were basic in demonstrating that the preponderance of evidence has shifted to the inevitable acceptance of strikes to aid teachers in achieving their goals. A glossary of relevant terms preceded an annotated bibliography of 32 citations from journals and books. The annotations are divided into four sections: (1) "Is It Unprofessional to Strike?"; (2) "Is Unionism and Militancy Justified?"; (3) "Are Students the Real Victims of Strikes?"; and (4) "What Are the Legal and Moral Ramifications of Strikes?" It is concluded that public school teacher strikes can be justified. The concluding biliography also serves as an author index to the works annotated in this document. (CB)

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AN ANNOTATED BIBLIOGRAPHY OF THE LITERATURE DEALING WITH THE QUESTION OF WHETHER TEACHERS AS PROFESSIONALS ARE JUSTIFIED IN STRIKING TO ACHIEVE THEIR GOALS

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INTRODUCTION

The teaching profession has been in a continuous state of turmoil when confronting the problem of work stoppages, teacher militancy and finally strikes. Criticism of the methods and results of those actions has been advanced by the media and the educational community-at-large.

Many arguments both pro and con have been advanced to explain the action of teachers when their efforts seemed to border on radical or "unprofessional behavior."

From individuals such as Liberman on the right or conservative wing to Shanker on the left, to many opinions in between; arguments flourished justifying or condemning teachers for their fight to gain control of their profession. Research has indicated an interrelationship between teacher militancy, regular trade union evolution, teacher unionism and the right to strike.

Further complicating matters was the issue of teachers as professionals and public employees using strikes as weapons to achieve their goals.

STATEMENT OF THE PROBLEM

The problem in its purest form still revolved around the question of whether professionals should be unionized at

all much less use traditional trade union methods to achieve results.

Since the situation has not been resolved to date; an examination of each sides' strongest views was necessary. Research has indicated that although all of the issues were interrelated; they fall into four basic categories. (1) Teachers, because they are professionals, should not strike. (2) The rise of unions and teacher militancy is necessary to promote the aims of public school teachers. (3) Teachers should not strike because children are the ultimate victims. (4) Strikes by any public employees are illegal and therefore morally wrong.

A corollary issue was the role of arbitration, now becoming prevalent, as a means of settling disputes between teachers and administrator/school boards/legislatures.

PURPOSE OF STUDY

Many factors within the educational community have contributed ideas and views touching all aspects of the work stoppage issue. The purpose of this study was to organize and put forth those views in a manner that lended credence to the inevitability of teachers having the same legal and moral rights under the law as regular trade unions. These rights gained through the arduous journey through court decisions, civil disobedience, and legislative action, certified a process whereby teachers gained a voice in de-

termining the path that public education will follow in the future. To date within the triumvirate of school administrators, legislators and teachers; the teachers had been the weakest contributors to the future state of education in the country.

ORGANIZATION OF THE STUDY

For the purpose of developing a logical progression of ideas within this study, it was necessary to address three major themes in order. 1) The present state of arguments against teacher strikes, 2) their refutation by various individuals within the profession, and 3) stating arguments that were basic in demonstrating that the preponderance of evidence has shifted to the inevitable acceptance of strikes to aid teachers in achieving their goals.

However, due to the unknown factor of the length of time that court processes may take in making decisions, the time factor was not included. The inevitability was.

LIMITATION OF STUDY

The nature of the study was philosophical rather than factual. There was a great deal of material concerned with the justification of teacher strikes but much was repetitive in nature. Authorities did not agree on basic issues, therefore it was believed that one needed to draw one's own

conclusion after consideration of the literature available. There was a great deal of interpretation in facts presented by the sources and the research available; thus it was necessary to generalize. Lack of research into the subject limited much of the paper to philosophical opinion rather than hard facts.

GLOSSARY

American Federation of Teachers -- "union of classroom teachers affiliated with the American Federation of Labor and the Congress of Industrial Organizations." (Gilroy 1969:49)

arbitration -- "method of settling employee - management dispute through recourse to an impartial third party whose decision is usually final and binding." "Arbitration is voluntary when both parties, of their own volition, agree to submit a disputed issue to arbitration, and compulsory if required by law." (Gilroy 1969:49)

code of ethics -- "those ideals, principles, and standards of individual conduct as related to professional duties and responsibilities." (Good 1973:110)

collective bargaining -- "attempt of employee - employer representatives to reach an agreement on wages and working conditions; presence of a union is often implied; to be contrasted with professional negotiations, a method which assumes the employing board's legal right to adopt the final policy concerning wages and conditions governing contractual employment; the distinction has, however faded over the years." (Good 1973:114)

ethics, professional -- "the general principles of right and wrong conduct as applied to the special problems of a profession; this is in distinction to, but not separate from, the general problems of personal and social ethics." (Good 1973:220)

militancy, teacher -- "the term applied to the movement of teachers, from the 1960's on, to organize more effectively, have a greater voice in making educational policy, and take collective action to achieve their ends." (Good 1973:367)

morality -- "(1) a system of principles (or a code) of right and wrong conduct, actual or idealized, as in democratic morality, Christian Morality, etc. (2) conformity in behavior to some principle or code of right or good conduct, as in expressions like 'training for morality'." (Good 1973:374)

National Education Association -- "An organization composed of educators from all segments of the education enterprise, including classroom teachers, specialists, and administrators. (Gilroy 169:53)

negotiations -- "the process by which representatives of the employees and employers bargain to set conditions of employment including salaries, hours, benefits, working conditions, and the machinery for handling grievances." (Gilroy 1969:53)

negotiations, collective: "(school admin.) a process whereby the teaching staff as a group and their employers make offers and counteroffers in good faith on the conditions of their employment relationship for the purpose of reaching a mutually acceptable agreement." (Good 1973:383)

Professional Organization --

teachers' association: "a formalized group composed of teachers and other certified personnel employed in a school district, state, or other area; may be established for various purposes, such as the advancement of teachers' welfare and the promotion of the cause of education: criteria for membership may be established consistent with the Civil Rights Act of 1964. Syn. teachers' organization." (Good 1973:587)

sanctions, professional -- "a technique developed by the National Education Association as an alternative to strikes; may include any one or combination of the following: public declaration of unsatisfactory working conditions; recommendation that members of the profession refuse to accept employment in the area; censure, suspension, or expulsion of members who accept jobs in the area: campaign to mobilize public opinion and political action to bring about change." (Good 1973:507)

strike -- "a work stoppage by the employees in an enterprise for the purpose of gaining concessions from the employer." (Gilroy 1969:54)

strike, teacher: "a temporary cessation of work by teachers in order to express a grievance or enforce a demand." (Good 1973:561)

teacher -- "a school employee who spends all or part of time in the classroom and who is in direct contact with students in promoting the learning process." (Gilroy 1969:54)

union, labor -- "an organization of operative employees whose leaders are elected by and from their own number for the purpose of collective bargaining with employers and for other legitimate purposes to accomplishment of which will promote the interests of the employee." (Good 1973:629)

union, teachers -- "a local organization of teachers affiliated with organized labor, the purpose of which is the promotion of professional growth, economic welfare, security of tenure, and advancement of the general professional status of teachers." (Good 1973:629)

ANNOTATIONS

IS IT UNPROFESSIONAL TO STRIKE?

Urban, Wayne J., Why Teachers Organized, Wayne State University Press, Detroit, 1982, pp. 25-43.

Urban wrote about reform in the early 1900's and stated an interesting point about professionalization of teachers. He defined professionalization as "autonomy of job control by those who are 'professional' as well as specialized training and intellectual techniques." (p. 41) The reformers' goal in New York and Chicago was to gain control over school affairs for educated administrators while teachers' goals were to prevent this takeover in order to protect existing seniority systems and regular salary increases. This control rested with lay people. Teachers were protective and defensive and Urban believed that their ideology was "closer to that of the craft-oriented worker than that of the professional." (p. 42)

Alexander, Leslie B., "Professionalization and Unionization: Compatible After All," Social Work, November, 1980, 25:476-482.

Despite the common view that unionization and professionalization were inherently antagonistic, the number of professionals belonging to unions continued to grow. Concerning membership in unions; professionals had a basic resistance to unionization based on prestige. Professionals had always set themselves above the "common herd." (p. 477) Also they had set goals which include "rising above" (p. 477) union membership to management while regular trade union members tended to cling to membership throughout their careers.

Also, there was a philosophical difference in the two modes of organization. The professional spirit extended beyond the narrow economic and protectionist issues while regular unions were basically institutions of the job market whose development was greatly influenced by economic developments. There was also a difference in tactics. The purpose of professional associations resulted in much less intimate involvement in the daily lives of members than the union has.

However incompatible the unions and professions seemed on the surface, the article referred to transitional and hybrid models of unionized professional organizations which in time served the purpose of achieving professional goals within a union framework. These hybrid associations provided, for example, more immediate protection for its members than purely professional organizations. In addition unions enhanced services delivery by broadening the scope of collective bargaining issues. Alexander concluded that to reject unionization because it was unprofessional was "supported neither by the theoretical base, the historical record, nor the current reality." (p. 482)

Lieberman, Myron, and Moskow, Michael H., Collective Negotiations For Teachers, Rand McNally and Company, Chicago, 1966, pp. 296-297.

Lieberman and Moskow traced the question of whether teacher strikes were "unprofessional" regardless of the circumstances. "Professional codes of ethics not only permit but obligate professional workers to withdraw their services under certain conditions." (p. 297) The authors cited doctors, lawyers, and priests as professionals that set conditions which must be met by clients to receive professional services. "Whether the professional is employed individually or by a community is irrelevant. If teachers follow that policy and practice of the acknowledged professions, teacher strikes would occur much more frequently than they do." (p. 297)

Lunch, Milton F., "Public Accountability For the Professions", Professional Engineer, October, 1978 48:16-18.

Lunch stated that professionals had "a higher motive than mere money making or profit seeking; that they had a duty to the public service over and above their self-interest and were self-regulating." (p. 16) They may have high, idealistic goals, nevertheless that "distinguishes the professions." Also, Lunch discussed the self-regulating problems of all professions, burdened with the publics "cynical distrust." However, the author cited watchdog legislative and citizen groups plus the presence of non-professionals on regulating committees as positive factors. "The regulation of the professions has always been under the so-called police power of the states." (p. 17) Lunch noted that the Justice Department and the Federal Trade Commission was now challenging the status quo. The trend to invest regulatory power in the government, if "carried to its ultimate would accelerate the development of an all-powerful state and weaken the system of voluntary associations which is one of the chief strengths of a democratic society." (p. 18)

Conrad, Donald L., "Collective Negotiations and Professionalism," Readings on Collective Negotiations in Public Education, Rand McNally and Company, Chicago, 1967, pp. 405-411.

Conrad's main objective was to demonstrate the difficulty of defining a professional and the greater difficulty of the layman evaluating the quality of the "professional expertness." (p. 406) He felt that the familiar "superordinate-subordinate structure" (p. 407) was incompatible with professional occupations. Although all professions varied greatly "in terms of any absolute standard of professionhood, the qualities of colleague control and freedom to apply expertness are absolutely essential." (p. 407) Another issue discussed was the reluctance of teachers to become involved in collective negotiations because it was unprofessional, but there was unstated approval of individual negotiations. He called this "irrational" (p. 410) because "an individual cannot be a professional." (p. 410) One became a professional as he joined with others of similar disposition to form a collectivity that asserted: control over admission to practice, the direction of pre-professional education, and jurisdiction in the expulsion of the unscrupulous." (p. 410) A profession needed strong internal organization and public sanction to it so bona fide in the public eye.

Gilroy, Thomas P., et al., Educator's Guide to Collective Negotiations, Charles E. Merrill Publishing Company, Columbus, Ohio, 1969. pp. 78-79.

The authors asked the question "Are the professional ethics of teachers likely to prevent them from striking?" (p. 78) They answered this pertinent question by saying that it was not only permitted but teachers were obligated to withdraw services when certain conditions exist. "When the school district jeopardizes the welfare, safety, and educational program of the students, teachers often feel obligated to withdraw their services." (p. 78) They felt this was professional behavior and compared teachers with professional groups such as doctors, lawyers, airline pilots and priests. These professional people withdrew their services when certain conditions exist that jeopardize either welfare, safety, or were unethical situations according to their profession judgement. Teachers followed this behavior for the same reasons.

Lieberman, Myron, Education As A Profession Prentice-Hall, Inc., Englewood Cliffs, New Jersey, 1956.

Lieberman set forth the criteria defining a profession and then described and analyzed the status of education with respect to those standards. The critical chapters dealt with professional autonomy providing a link, for the purposes of this study, to the reasons teachers should be militant in their efforts to control their own profession. He stated that their profession was controlled by administrators, school boards and legislators. "It is a strong possibility, if not the fact, that professional autonomy is not being taken away from teachers but is being given away by them." (p. 105) A discussion of teachers unions and strikes laid a foundation for declaring that "teachers strikes are unprofessional" was weak at best. Examples of airline pilots, doctors, and lawyers, "true professionals", striking for better working conditions and client welfare were very important. Lieberman stated that adhering to a code of ethics may in fact provide a basis to strike, rather than prevent that possibility. "In fact such behavior may typify effective democratic citizenship at its' best." (p. 12)

Lieberman went on and described a profession as an occupation by these distinct characteristics: 1) a unique, definite and essential social service, 2) an emphasis on intellectual techniques in performing its service, 3) a long period of specialized training, 4) a broad range of autonomy, 5) an acceptance by the practitioners of broad personal responsibility for judgments made and acts performed within the scope of professional autonomy, 6) an emphasis on service rather than on economic gain, and 7) a comprehensive self-governing organization of practitioners. (p. 4-5)

Finn, Chester E. Jr., "Teacher Politics," Commentary, February, 1983, 75:29-41.

In this article, Finn wrote about the educational and political positions of the NEA and AFT, and on what issues they agreed and disagreed. Finn stated that the attempted professionalization of the profession was a concern for both groups, though their approaches to solving the problem were at odds. The NEA at one time considered itself a professional organization rather than a labor union. That classification changed to labor union because of the official designation by the Labor Department and the Internal Revenue Service. Their basis was that of professional organization and they still asserted that "the profession must govern itself," (p. 31) as was "consistent with the approach of doctors and lawyers to their own profession." (p. 31)

IS UNIONISM AND MILITANCY JUSTIFIED?

Gilroy, Thomas P., et al., Educator's Guide to Collective Negotiations, Charles E. Merrill, Columbus, 1969, p. 57.

A question and answer section in this book gave six major social and economic factors that caused teachers to become militant. They were: 1) the conflict in the "employee" and professional status of teachers in a "bureaucratic school system;" 2) a rapid emergence of a new status for public employees in general, and the increasing pressures for enabling legislation at the state level to provide organization and bargaining right of which teachers can take advantage;" 3) the economic injustice of salaries that "historically lagged behind the financial returns received by comparable trained groups, and often behind the pay of unskilled workers:" 4) the developing problems in large school systems and the "loss of identity by the teachers in large urban school systems;" 5) the increased need for status and dignity in the teaching profession because of high education levels and professionalization of teachers; 6) the psychological effects brought about by "the crusade of the American Negroes for human and civil rights - for elevation to first-class citizens" because teachers "often consider themselves as the oppressed economic and social group."

Oakes, Russell C., "Should Teachers Strike? An Unanswered Question," Journal of Educational Sociology, March, 1960, 33:339-344.

Although this article was written in 1960, Muro's investigation gave causal conditions, other than economic, for teacher strikes as indicated by the teaching professionals. They were: 1) a general lack of faith and interest in the public education where strikes occur and the general decrease of financial support, 2) the "public failed to understand the needs of teachers, financial and otherwise" (p. 340) resulting in "humiliating poverty," (p. 340) 3) "outmoded tax limitations, inflexible city characters, fiscal dependence of boards of education on other governmental groups, and political pressure from vested interest in local government and local industry" (p. 340) resulted in the failure of teachers' efforts to improve their salary and welfare, 4) the realization by teachers that through strikes, their organizations could be used effectively.

Ohanian, Susan, "Teachers Are Organized But To What End?" Learning, 1982. 48:88-90.

This article told of the author's uneasiness with the direction in which her union activities are oriented. She believed public relations was more important than competence and excellence in the profession. The union encouraged its members to get the most money and most "secure" jobs. They had no concern about what was best for the individuals. Unions failed to consider the difference in "public relations" and "public responsibility." Unions failed to remember that teaching was a position of "public trust" and needed to think beyond the better contract and job security. Protection of all members was a primary concern of the union, without considering the caliber of teaching. Academics were not the concern. Salaries, working conditions, and time off were the kinds of issues discussed. Ohanian concluded with the recommendation that unions rethink "its own Golden Rule: Never volunteer anything for which somebody might get paid." (p. 90) Ohanian felt that unions need to get to the "nature of teaching" and the "great idea of our calling." She believed that job security and related issues were important but not at the expense of teacher integrity.

Ward, Phil, "Why Our Strike Failed," Learning, April, 1980, 8:30-33.

This article described a strike in Baton Rouge in 1979 that failed to accomplish any positive results. Ward wrote a thought-provoking analysis of the NEA actions that snowballed into a teachers' strike that teachers were unprepared to back. He felt that political action required a "deep and dedicated commitment to clearly defined goals and a basic trust relationship between members themselves and between their leadership." (p. 32) In this case the NEA failed to take time to develop these elements and political tactics for gaining solidarity resulted in mistrust and self-doubt. Ward felt that the NEA took a community problem, applied national tactics and led the organization into a crisis. The result was mistrust and loss of union members. He viewed the teachers as individuals who need to think and vote for themselves even though they are part of a political action group. Ward would strike again but with the conditions that there were no alternatives to the strike and that they knew what they wanted. Confusion and fear needed to be replaced by commitment and trust.

Shanker, Albert, "Education Reforms," Vital Speeches of the Day, September 15, 1983, 23:706-712.

Albert Shanker, President of the American Federation of Teachers, set a tone of caution in this speech delivered to the American Teachers Convention in 1983. Education had become one of the top two issues, "second only to the economic and unemployment question on the national agenda." (p. 707) He believed this was the result of reports concerning excellence and quality in education. He warned that "in the months ahead, we must be sure that the public doesn't see teachers' unions and collective bargaining as an obstacle to the improvement of education." (p. 710) He intended that the "AFT be on board shaping every change in education." (p. 709) There was a great deal at stake in public education and one position the AFT must take was "that our job is not to teach children what to think, but to teach them how to think." Teachers must participate in the reform with the help of the AFT because, in a very patriotic statement, "the stakes are not just education, and the stakes are not just unions. The stakes are the future of the country, and I know this union will rise to the challenge." (p. 712)

Cheng, Charles W., Teacher Unions and The Power Structure, Bloomington, Indiana: Phi Delta Kappa Educational Foundation, 1981.

In this monograph, Cheng traced the rise of teacher unions, the reasons for their emergence and what they have become. Cheng began with the period from 1900 to 1920; a period of reform which resulted in a hierarchial model placing authority with the superintendency. The superintendency emerging as one of the "controlling institutions in local districts." (p. 12) It did not allow for the "collective participation" of teachers. Cheng felt the composition of boards and the ideology of its members assigned teachers a subservient position in any policy-making. The author cited 1960 as the year, after sporadic struggles, NEA came under control of the classroom teacher rather than the administrator. He suggested that the 1960 civil rights movement as a parallel that aided educational reform. The AFT and the NEA became politically active and by 1981, bargaining by teachers was mandated in 31 states. (p. 17) Teacher organizations became relevant and powerful to the national scene. Cheng believed that unions made positive advances to benefit teachers even though they caused a great deal of controversy as well.

Cheng felt that "teacher unionism has increased the voice of teachers in the educational decision-making process; teacher unionism has broken the monopolistic control exercised by the old educational power structure; teacher unionism has forced us to rethink the question of school governance." (p. 34)

Poltrack, Lawrence A., "Educational Reform and Its Labor Relations Impact From a Union Perspective," Journal of Law and Education, July, 1984, 13:457-468.

Poltrack, a noted counsel for the American Federation of Teachers, discussed educational reform from an economic standpoint. "The public understands the primary importance of education as the foundation for a satisfying life, an enlightened and civil society, a strong economy and secure nation." (p. 156) He stated that although American labor is pricing itself out of world markets due to its workers being more extravagantly compensated than their international counterparts, national "respect for education" (p. 458) deemed it necessary for teacher unions to collectively bargain for higher wages, improved working conditions and educational reform. He stated that educational reform efforts have "moved to the forefront of legislative agenda across the country." (p. 466) Reform did not include losing hard-won victories in equal pay, reduced class size, tenure and due process issues. The collective bargaining process however, helped implement merit pay plans, judicially-mandated systems of teacher tenure rights and teacher evaluation. Issues that were paramount to what President Reagan called a renewed "respect for education." (p. 466)

McCormick, Kathleen, "A.F.T. Tones Down Its Rhetoric" The American School Board Journal, November 1984, 221:31-32.

This article was a review of the convention of the American Federation of Teachers in 1984, highlighting Albert Shanker's remarks. He proposed that promoting professionalism would help the union movement. In the process of reform, the union should not only have the "traditional concern for protection, job security and economic well-being," but add to this one "representing standards, educational excellence, participation and self-governance." Ernest Boyer, president of the Carnegie Foundation for the Advancement of Teaching, stated that the basic problems for teachers was not salary or merit pay. Rather, the problems were depressing working conditions, lack of recognition, "teacher burn-out because of too little backing from parents, too much paperwork, too little preparation time and mindless interruptions." (p. 35)

During an intermission following his speech, Shanker stated that the need to "attract bright, intelligent people to a job where everything has been legislated for them by the state, "will not happen." He did not ask for power to be handed over to teachers because they were not ready for it. "The demand for excellence will lead to a slow empowering of teachers." (p. 32)

Lieberman, Myron, "Eggs That I Have Laid: Teachers Bargaining Reconsidered," Phi Delta Kappan, February, 1979, 60:415-419.

Lieberman, one of the first education theorists to advocate collective bargaining for teachers, changed his mind. In this article he compared public sector bargaining and private sector bargaining. He felt the private sector lacked the political and economic advantages inherent in the public sector. He cited his book Education as a Profession, written in 1956 and his belief was that "under a system of collective bargaining, management would be excluded from teacher organizations. Such exclusions would enable the organizations to become more vigorous and effective advocates of the higher standard that administrators would not and could not support because of their positions as management representatives." (p. 418) Administrators have been excluded but he felt his mistake was believing that unions would be guided to public interest. Instead, they were guided by the interest of the members. His conclusion was that because of the advantages of public employment, their representational rights should be significantly less than that of the private sector.

Urban, Wayne J., Why Teachers Strike, Wayne State University Press, Detroit, 1982, pp. 173-178.

Urban's concluding chapter summarized his findings with the following generalizations. 1) Economic issues were the dominate motivation of the early organization and have remained a key to membership. 2) The organizations are politically and occupationally traditional and resisted change. 3) The centralized leadership structure was devoted to "time consuming tasks such as bargaining and handling grievances," (p. 174) leaving little time for member participation in goal setting and planning strategies. Modern day collective bargaining "enhances, rather than alters, the economic priorities, occupational traditionalism, and centralized leadership of teachers' organizations." (p. 176)

Wynn, Richard, "The Relationship of Collective Bargaining and Teacher Salaries, 1960 to 1980," Phi Delta Kappan, December, 1981, 162:237-242.

This study was done to determine the effect of collective bargaining on teacher salaries. Wynn "attempted to examine the variation, if any, between the average annual K-12 public school teacher salaries in collective bargaining-intensive states and in states in which collective bargaining by teachers is uncommon." (p. 238) Wynn found that there were gains but none that he considered "statistically significant." His conclusion was that there was no evidence to indicate that collective bargaining had a positive influence on teacher salaries. He warned the reader to consider the conclusion with caution because variables were not controlled in the study. He indicated that more research needed to be done to illustrate the effect of bargaining on the complete compensation package which included fringe benefits as well as salaries.

Delaney, John Thomas, "Strikes, Arbitration, and Teachers' Salaries: A Behavioral Analysis," Industrial and Labor Relations Review, April, 1983, 36:431-446.

In this complicated article, the author used Bacharach and Lawler's behavioral theory of bargaining to derive hypotheses about the impact of strikes and compulsory arbitration on teacher salaries. Those hypotheses were tested with data sets on Illinois and Iowa school districts and on a national sample of teachers drawn from the Current Population Survey. The results suggested that strike use affected teacher salaries but that arbitration use did not. "Additional tests indicated that the availability of both arbitration and of the legal or de facto right to strike had similar effects on salary levels, increasing salaries by about 10 percent. The findings also suggested that arbitration and the strike were used as defensive rather than offensive strategies." (p. 431) Defensive meaning they were used "to maintain salary levels, rather than as offensive actions to secure additional salary gains." (p. 445) Delaney also stated that "teacher salaries under a strike or arbitration system are higher than they are in nonstrike and nonarbitration states." (p. 446)

ARE STUDENTS THE REAL VICTIMS OF STRIKES?

Scott, Kenrick, "The Case Against Collective Bargaining in Public Education," Government Union Review, Spring, 1983, 4:16-25.

Scott presented empirical data supporting the opposition to collective bargaining for teachers. He summarized a number of studies concerned with the effect of teacher strikes on children. The conclusions were: 1) increased dropout rate that continued for several months after the strike, 2) negative student "attitudes toward teachers, the school committee (school board), their perception of the school's concern for students and their value of education," (p. 23) 3) "less teacher enthusiasm, efficiency, satisfaction, and probably decreased effectiveness with students," (p. 23) 4) lower achievement scores in reading and math, and 5) lower percentage of attendance and larger daily absence. Scott stated that there was a limited number of studies concerning the impact of strikes on students, but those that did exist indicated negative data.

Lieberman, Myron and Moskow, Michael H., Collective Negotiations For Teachers, Rand McNally & Company, Chicago, 1966, pp. 229-303.

Lieberman and Moskow wrote that when the public and school administrators became excited over children losing class time when a strike occurs, "intellectually, this is not an overwhelming argument." (p. 299) The authors stated that "schools are closed for summer, Christmas, Easter, and Thanksgiving vacations, for football games, basketball tournaments, harvesting, teachers' conventions, inclement weather, presidential visits and for a host of other reasons without anyone getting excited over the harm done to the children." (p. 299) The authors contended that it takes two parties to disagree and "there is little merit in assuming that the teachers are at fault in every teachers strike. (p. 299) Lieberman and Moskow noted that "teaching under certain conditions may hurt the children worse than no teaching at all." (p. 299) Also lost time may be made up by extending the school year. The authors concluded, "It would be unrealistic to advocate teachers strikes as the best means to cure the ills of public education, but a teacher strike may not always be detrimental to the public interest." (p. 299)

Shils, Edward B. and Whittier, C. Taylor, Teachers, Administrators and Collective Bargaining, Thomas Y. Crowell Company, New York, 1968, pp. 47-92.

The authors' reviewed a number of different studies on the topic and what had been learned from them. They cited Peter Schnaufer, an AFT researcher who indicated that crisis situations were the best way to improve contracts. Strikes by teachers have a shock value and the inconvenience made them particularly effective. This inconvenience is sorely felt by the parents because "schools are more custodial and less educational than even the most cynical social critic probably realized. A strike had the effect of dumping children back on their parents for day-long and week-long care." (p. 89) The researcher felt that those who believed that the "schools exist for the children," were "simple-headed." Even though there were many participants in the schools "none should be so paramount that others are denied their dignity." (p. 89) Schnaufer wrote that no one got seriously hurt in a strike, even one which fails to achieve its announced goals." (p. 89)

Hipp, Frederick L., "The Challenge to Leadership in Solving Problems of State Associations" Readings in Collective Negotiations in Public Education Ed., Rand McNally & Company, Chicago, 1967, pp. 255-265.

Hipp felt that at that point in time, the "profession has not yet made up its mind concerning strikes and sanctions." (p. 258) The author's final evaluation of cases where sanctions and work stoppages were used was mirrored in the question, "Are the children better or worse off because of a teacher work stoppage?" He contended that "strikes and sanctions are not generated overnight." (p. 259) In some cases circumstances developed over a number of years that required strikes or sanctions - "it can be more professional to take direct action in an attempt to solve problems of long standing than to fail to act." (p. 259)

Hipp cited an interesting example parallel with the statement, "If it is illegal for teachers to withhold service, it should be illegal for a community to neglect the proper education of its children." (p. 261) Since this is not the situation and "boards and communities fail to live up to their responsibilities to provide good education for their children, the educational profession has a responsibility to do everything in its power to correct the situation." (p. 261)

WHAT ARE THE LEGAL AND MORAL RAMIFICATIONS OF STRIKES?

Fischer, Louis; Schimmel, David, and Kelly, Cynthia, Teachers and the Law, Logman, New York and London, 1981. pp. 47-60.

In the chapter on the relationship between collective bargaining and the teacher, the authors gave information on court decisions and how they affected individuals. During the Norwalk Teachers' Association Case in 1946, the Connecticut court ruled that teachers have a right to organize a labor union but had no right to strike. Currently, over two-thirds of the states passed laws allowing collective bargaining for teachers, although the laws vary for state to state. There was no federal law that regulated collective bargaining for teachers and was considered unconstitutional because "it would involve Congress in legislating education, which the Tenth Amendment reserves as a state function." (p. 51) The scope and method of bargaining varied from state to state. The right to strike situation had not changed since 1946. Teachers had no constitutional right to strike, but a small percentage of states passed limited right to strike laws. The majority of states prohibited strikes by teachers and often "provide that teachers who go on strike can be dismissed. In addition, the courts have been willing to issue injunctions against teachers who engage in illegal strikes, and to uphold the board's authority to impose economic sanctions on striking teachers." (p. 60)

Jascourt, Hugh D., "Responses to Union Concerted Activity: An Introduction," Journal of Law and Education, January, 1979, 8:55-71.

The main thrust of the article was contained in the question; "Is banning public employee strikes a legal boomerang?" (p. 55) The answer was yes because "government negotiators throughout the country indicate that they would prefer the strike alternative." (p. 57) Reasons for the above were 1) management believed they can win a strike confrontation, 2) many public employee unions had limited strike funds, 3) unions had a better chance to win arbitration battles without risks inherent in a strike, and 4) "strike prohibitions do not eliminate strikes." (p. 49) There of course, was no right to strike. Jascourt noted that the "legal ability to do so arises solely out of statute." (p. 59) Jascourt also related the legal and moral discourses necessary for justifying strikes. That was "common law is not composed of unalterable of immutable rules." (p. 59) The changing rights of women was a good example of its flexibility. The Supreme Court had long recognized the right of labor to organize and to bargain collectively, that were fundamental rights with constitutional protection. Discussion of First Amendment rights pursuant to the protection of those rights followed. Jascourt concluded with a most succinct statement, "Those of you who prefer to prohibit the use of strikes by public employees must recognize that the prohibition is not the last word. The courts have the last word." (p. 71) Two important court cases cited by Jascourt were Town of Westerly v. Westerly Teachers Association in Rhode Island in 1973 and Onieda County v. Onieda Education Association in Idaho in 1977.

Marczely, Bernadette, "What's Good About Binding Arbitration: It Puts An End to Teacher Strikes," The American School Board Journal, November, 1983, 170:31-32.

In 1979 Connecticut passed the Teacher Negotiation Act which provided for a "tightly structured blueprint for the process of negotiating teacher contracts-ending if need be, with binding arbitration." (p. 31) On the surface the act had accomplished its purpose; eliminated strikes and also was a fair and equitable alternative to all involved. Marczely felt that these appearances were deceiving. She stated that school board negotiators were philosophically opposed because they viewed "arbitration as an unlawful violation of their powers as an elected body" (p. 54) and should not be "given the authority to make ultimate decisions affecting a community to which they have no sustained responsibility." (p. 54) The teacher unions stand opposed because the act "inhibits the right of teachers to negotiate freely and to strike if need be." (p. 54) The plan still must pass the test of constitutionality and be tested in the courts.

Colton, David, "Collective Bargaining Laws and Teacher Strikes," Journal of Collective Negotiations in the Public Sector, 1978, 7:201-212.

This article was an analysis of a study done by the Public Service Research Council in 1976 that concluded that collective bargaining laws led to increased strikes by public employees. Colton raised questions about sponsorship and the use of data. His organization, the Center for the Study of Law in Education produced a partial replication of the original study with a limited focus to strikes by teachers. The findings did not demonstrate a casual relationship between statutes and strikes in either. Colton's study pointed to a greater significance in social, economic, and regional factors. The question should focus on kinds of statutes adopted, using models from those already on the books in some 30 states, reviewing the experience they have had. He believed that it was possible to design a statute that fits each local scene without increasing the incidence of strikes. Common sense suggests that unions will not go away.

Lee, Barbara A., "The Yeshiva Decision: An Ultimatum for Professionals?" New York University Education Quarterly, Spring, 1982, 13:21-28.

Lee wrote that the Supreme Court held in 1980 that Yeshiva University faculty was in fact managerial in employment and not entitled to unionize. The impact of the decision that troubled many professionals was that they must decide to choose between their rights as employees to unionize and their interest as professionals to contribute their knowledge to their organization. The rationale in the Yeshiva Case was the Supreme Court held that faculty influence over decision-making at the university was of sufficient power and persuasiveness to make them managers. Therefore an employees professional status did not exclude them from having "true managerial authority" (p. 25) and thus having no necessity to unionize. The managerial/professional situation was being used by college administrations to negotiate depending on their perception of the decision making capability of those professionals involved in the bargaining process. It has remained a landmark case thus far.

Hetenyi, Laszlo, "Unionism in Education: The Ethics of It," Educational Theory, Spring, 1978, 28:90-95.

Hetenyi stated that collective bargaining without the power to strike was not much help to the workers. In the case of education, school districts didn't "lose their customers," (p. 91) or revenue. Since education was a monopoly, Boards of Education "can sit tight until the strike is broken." (p. 91) Ethical judgement became important when one considered "the qualitative and quantitative impact of decisions on the individuals and groups who themselves are not part of the bargaining process." (p. 92) He felt that the right to strike was essential to collective bargaining because "ethical decisions involving employers and employees are not likely to improve" (p. 92) unless there was a balance of power.

Moscow, Michael H., Teachers and Unions, University of Pennsylvania, Philadelphia, 1966, pp. 45-54.

Moscow stated that all courts agreed that the right to strike did not exist. But some authorities believed "that no strike statutes are only constitutional when the health and safety of the public are endangered." (p. 54) The Taft-Hartley Act recognizes threats to health and safety only if a national emergency is created by the strike," (p. 54) when it referred to private industry. The authorities believed that statutes should give public employees the right to strike "under some circumstances." (p. 54) A court in Minnesota differed with the stringent no right to strike laws when it stated that "the right to strike is rooted in the freedom of men, and he may not be denied that right expected by clear, unequivocal language embodied in a constitution, statute, ordinance, rule, or contract." (p. 54)

Rich, John Martin, "Civil Disobedience and Teacher Strikes," Phi Delta Kappan, December, 1983, 63:151-154.

One argument Rich discussed in this article was that "a strike is an illegal and unlawful act (when it violates existing legal statutes) and hence, is morally wrong." (p. 151) There were no arguments about the first part of the statement, strikes are illegal and obedience was not optional. The question of morality was more complicated. First he established that teacher strikes are a form of civil disobedience. Also, he stated that "disobedience to a single law need not imply disrespect for all laws or the attempt to overthrow the social order." (p. 153) Rich felt that the "rationale for civil disobedience is the appeal to the incompatibility of the law and one's conscience." (p. 153) He related these basic assumptions to teacher strikes when he stated that if all "legal protest fails, civil disobedience becomes the only viable alternative." (p. 153) He felt the teacher strikes were morally justified when all legal alternatives were exhausted and there was a violation of one's conscience. He cautioned that "careful consideration to the immediate and long-term social and educational consequences of their acts before choosing to engage in civil disobedience" (p. 154) was essential.

Lieberman, Myron and Moskow, Michael H., Collective Negotiations For Teachers, Rand McNally & Company, Chicago, 1966 pp. 302-303.

Lieberman and Moskow stated that "an action can be legal but immoral or impractical. Sometimes they are morally justified but practically unwise." (p. 302) The authors continued, "the legal right to strike and the morality of exercising that right at a particular time for a particular purpose are two different things." (p. 302) They continued, "One should not automatically assume that teachers do not have the right to strike in the absence of a statutory prohibition." The authors contended that teachers should be permitted to test their legal right to strike in states where the issue had not been definitely resolved. "Where reasonable grounds exist for believing that particular legislation is unconstitutional, teachers should be able to test constitutionality without being stigmatized for such action." (p. 302)

SUMMARY

The contention that teachers because they are professionals should not strike was examined in a historical and philosophical content. Urban traced the rise of professionalism in the teaching profession from the early 1900's. Beginning with a craft-oriented worker ideology and progressing to eventually seizing control by the application of professional standards. Alexander explored the growth of philosophical differences in regular trade unions as opposed to professional associations. Lieberman criticized the proposition that teachers should not strike because it is unprofessional. Lunch agreed that professionals should have a higher motive than mere money-making or profit-seeking. "They have a duty to the public service over and above self: interest" (Lunch 1978:16). Conrad contended that teachers were reluctant to become involved in collective negotiations because it was unprofessional. However, there was an unstated approval of individual negotiations. He went on to state that that position was "irrational because an individual cannot be a professional" (Conrad 1967:410). One became a professional as he joined with others of similar disposition. Gilroy went on to explain the professional position of withdrawing services when certain conditions exist, he cited airline pilots, doctors, and lawyers as examples. Lieberman agreed. He stipulated that, in fact

such behavior may "typify effective democratic citizenship at its best." (Lieberman 1956:12) Finn explored professional organizations such as the NEA and the AFT and their emergence in spearheading the battle for the legislation of strikes by teachers.

Exploring the militancy of teachers and the need for unionization, Gilroy relates six major social and economic factors that have caused teachers to become militant. Those factors formed the basis by which the rise of current union activity has been evaluated.

Oakes contended that because "the public failed to understand the needs of teachers financial and otherwise," teachers organizations were necessary to avoid "humiliating poverty" (Oakes 1960:340). However, Ohanian was disenchanted when she noted that unions cared more for salaries, job security and public relations than teacher integrity. Ward basically agreed because he felt that the unions, especially the NEA applied national tactics to local community problems. Shanker cautioned, that unions in the process of reform, should not be seen by the public as "obstacles to the improvement of education." (Shanker p. 710) Cheng in tracing the historical evolution of the teacher union felt that the AFT and NEA became politically active in 1960, in the throes of the Civil Rights movement. He noted that unions had made positive advances to benefit teachers while causing a great deal of controversy in the

process. The controversy was embodied in the public's perception of the teachers fighting for salary increases at the expense education as a whole. Poltrack said however, that an enlightened and civil society understood the primary importance of education from an economic standpoint and deemed it necessary for teacher unions to bargain collectively for higher wages to affect a "strong economy and secure nation" (Poltrack 1984:458). Also Shanker contended that the basic problem was not salary or merit pay rather the problems were depressing working conditions, teacher "burn out," and too much paperwork. The unions should wrestle with those problems and the demand for excellence will lead to a "slow empowering of teachers" (Shanker 1983:710).

Concerning the issue of teachers and collective bargaining, Lieberman bemusingly was on both sides, pro and con. Early in his career he stated that he advocated collective bargaining in the public sector. Later he felt he made a mistake in his advocacy believing that unions would be guided by the interests of its members and not to the public interest. Urban sided with the negative in that he believed modern day collective bargaining enhanced economic priorities at the expense of goal setting. Wynn examined the question by statistically determining salary differences on those teachers who had collective bargaining processes working for them. Delaney on the other hand used

information involving the impact of strikes and compulsory arbitration by using current population surveys and samples of teachers in Illinois and Iowa School Districts. He found that teacher salaries under strike or arbitration system "are higher than they were in nonstrike and nonarbitration states (Delaney 1983:446).

A strong argument put forth by Scott criticizing teacher strikes was that they did irreparable damage to the students. To support this contention he cited data using a number of studies that found negative attitudes, lowered teacher enthusiasm, lowered achievement scores, and lowered attendance did occur during work stoppages.

One cannot deny that these were poignant and alarming arguments, however Lieberman cited a number of unimportant and frivolous disruptions in the educational process that were not considered harmful to children. Shils supported this basic premise by stating that schools were more custodial than educational and parents actually were the ones affected, but in reality, no one got hurt in a strike.

Hipp summarized the argument when he stated that the true concern was whether or not the children were better off with or without the strike. If a "community failed in its responsibility to provide a good education for children, the educational profession has a responsibility to do everything possible to correct the situation." (Hipp 1967:261)

The legal issues revolving around teachers strikes was referred to by Fischer when he said that teachers have no constitutional right to strike. The author stated that does not constitute involuntary servitude nor an infringement on one's constitutional rights. However Jascourt stated that "common law is not composed of unalterable or imitable rules" (Jascourt 1979:59). He cited the changing rights of women as an example of law's flexibility. Marczely continued that approach when he noted that school board negotiators were philosophically opposed to eliminating strikes by statute since it hamstrung their powers as an elected body. Conversely, a study by Colton concluded that collective bargaining laws led to increased strikes by public employees because local issues usually could not be dealt with by applying a universal law. Lee examined the Yeshiva Decision which troubled many professionals, in that it held that faculty was in fact managerial and therefore not entitled to unionize. On the other hand Hetenyi felt that the right to unionize and strike was essential because ethically there must be a balance of power involving employers and employees. Moscow explained that a court in Minnesota differed with no strike laws because the "right to strike is rooted in the 'freedom of men' and he may not be denied that right." (Moscow 1966:54) The moral aspects were referenced by Rich when he established that teacher strikes were a form of civil disobedience. He stated that

"disobedience to a single law need not imply disrespect for al laws." (Rich 1983:153) He concluded that teachers strikes were morally justified when all legal alternatives were exhausted. Lieberman and Moscow stated that "one should not automatically assume that teachers do not have the right to strike in the absence of a statutory prohibition (Lieberman and Moskow 1966:302). The authors accepted the right to pursue all legal avenues as morally correct to continuously test the constitutionality of no strike laws.

CONCLUSION

A review of the arguments for and against teacher strikes leads one to believe that teacher strikes are justified. Although significant, the issues of professionalism and the injured third parties pale in comparison to the legal and moral issue. There is in this research a sense of the inevitable. Legal movement, although slow, indicates that as more states grant strike rights to teachers and as the courts have refused to close all doors to the continuation of the legal pursuance of the right to strike; the legal battle will inevitably be won. "Evolving decisional law appears to be headed in the direction that grants public employee unions, legally barred from striking, great advantages." (Jascourt 1979) Also there is no "right to strike." The legal ability arises solely out of statute.

Strengthening the belief of the inevitability of the process, one only has to cite the legal course followed by baseball. In the beginning the ball players were, in effect, chattels to their ball clubs. Now they have full strike capabilities. Also, the trade unions evolved to their present status through long and arduous legal process, civil disobedience, political pressure and finally success. This is a virtual blueprint for todays teacher's organizations.

Power is never given, it is taken. The process of no strike, to collective bargaining, to arbitration, to some strike rights means that the next step will be some form of legal redress. Lending credence to the push for legal redress is that teacher strikes can be morally justifiable, when legal alternatives are not open and when laws violate one's conscience, (Rich 1983) justification can be based on the moral rightness of the strike by calling public attention to the existing injustice.

Yes, public school teacher strikes can be justified.

RECOMMENDATIONS

There were no specific recommendations. The issue was philosophical in nature. Therefore, individuals in the educational community made their own private decisions about teacher strikes as they monitored union activity, read current articles and followed the legal ramifications of court decisions.

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